

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

FILED

03 DEC 30 AM 8:16

UNITED STATES OF AMERICA,

v.

RICHARD M. SCRUSHY,

Defendant.

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CR-03-BE-0530-S

U.S. DISTRICT COURT
N.D. OF ALABAMA



ENTERED

DEC 30 2003

ORDER

Having considered the Joint Motion for Continuance, and finding that the indictment in this case falls within the provisions of Title 18, U.S. Code § 3161(h)(8)(B)(iv) due to the quantity of discovery materials to be produced and reviewed and the time needed to file and review pre-trial motions, and finding that adequate preparation for pre-trial proceedings or for the trial itself would be unrealistic within the time limits established by Title 18, U.S. Code § 3161, et seq., and in the interest of justice the court hereby ORDERS

- (1) that the Motion for Continuance is GRANTED. The trial in this case is hereby SET for August 23, 2004 in Courtroom 5A of the Hugo L. Black U. S. Courthouse in Birmingham, Alabama.
- (2) The court further ORDERS:
 - (a) all discovery under F.R.Cr.P. 16(1)(A), (B), (D), (E), and (F), requested by the defendant, shall be provided by January 23, 2004, with any material becoming available subsequently to be provided immediately;
 - (b) all reciprocal discovery required to be provided under F.R.Civ.P. 16(b) shall be provided to the government by February 9, 2004, with any material becoming

77

available subsequently to be provided immediately;

- (c) the United States Attorney and Fraud Section of the Criminal Division of the Department of Justice will review materials in their possession and reasonably available to them to identify material subject to disclosure under *Brady v. Maryland*, and its progeny and *Giglio v. United States* and its progeny, and, except for materials already supplied to or otherwise available to the defendant under this order, shall provide copies of the same to the defendant as soon as it is identified and reasonably can be made available but no later than January 30, 2004, with any material becoming available subsequently to be provided immediately;
- (d) the government will provide the notices required under F.R.Evid. 404(b) no later than March 26, 2004, with any material becoming available subsequently to be provided immediately;
- (e) all statements required to be provided by the government under the Jencks Act, 18 U.S.C. § 3500 et seq., shall be provided to the defendant no later than three (3) weeks before trial for witnesses the government then believes will likely be witnesses in its case in chief;
- (f) all statements required to be provided by the defendant under F.R.Cr.P. 26.2 shall be provided to the government one (1) week before trial for witnesses the defendant then believes will be likely be witnesses in his case.

(3) The court further ORDERS:

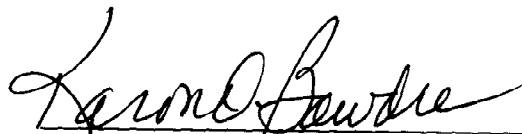
- (a) all non-dispositive motions (other than those for which other sections of this

- Order will apply) shall be filed no later than January 26, 2004, with any oppositions thereto due on February 9, 2004, regardless of the date the motion is filed, and any reply due February 17, 2004, regardless of the date the opposition is filed, and with argument before the court to occur on a date to be set by the court;
- (b) all dispositive motions shall be filed no later than March 12, 2004, with any oppositions thereto due on March 26, 2004, regardless of the date the motion is filed, and any reply due April 2, 2004, regardless of the date the opposition is filed, and with argument before the court to occur on a date to be set by the court;
- (4) The court further ORDERS:
- (a) status conferences are hereby SET for February 18, 2004 at 1:00 p.m., and April 15, 2004 at 2:00 p.m. in the fifth floor chambers of the undersigned;
- (b) by July 19, 2004, the government shall provide to defense counsel copies of all exhibits it anticipates using at trial, including any transcripts of audio or video tapes and any type of summaries; any exhibit previously provided can be identified by Exhibit number without the need to copy it again; the court requests that a binder of anticipated exhibits be provided for reference from the bench during the course of the trial;
- (c) by July 19, 2004, the parties must file a single, joint proposed jury charge, including all necessary instructions, or definitions applicable to the specific issues of the case; each requested instruction must be numbered and presented on a separate sheet of paper with authority cited; in joint, proposed jury materials, counsel are to include all necessary instructions or definitions, specifically

including (1) the *prima facie* elements of each crime and defense asserted; (2) legal definitions required by the jury; and (3) instructions on any issues unique to this case; if the parties, in good faith, cannot agree on all instructions or definitions, the parties should nonetheless submit a single, unified charge; each disputed instructions, definition, or question should be identified as disputed and labeled to show which party is requesting the disputed language; accompanying each instruction shall be all authority or related material upon which each party relied;

- (d) by July 19, 2004, the parties must file a single, joint proposed juror questionnaire; if the parties cannot in good faith agree on all questions or precise language of questions to be asked the panel, the parties should nonetheless submit a single, unified questionnaire; each disputed question, or portions of a question, should be identified and labeled to indicate which party requested the disputed question;
 - (e) all motions in *limine* shall be filed no later than July 19, 2004 and shall be accompanied by supporting memoranda containing legal authority relied upon;
 - (f) by August 9, 2004, the parties shall present to the court any special questions or topics for voir dire examination of the jury venire;
 - (g) trial briefs, if any, should be filed by August 9, 2004.
- (5) The court hereby SETS the Pretrial Conference for July 29, 2004 at 2:00 p.m.

DONE and ORDERED this 29th day of December, 2003.


KARON OWEN BOWDRE
UNITED STATES DISTRICT JUDGE